

IN UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

WILLIAM BRADSHAW and	)	
DORMAREE WATSON,	)	Case No.: 07-C-3667
Plaintiff,	)	
v.	)	Honorable Judge Joan Humphrey
	)	Lefkow
	)	
CITY OF HARVEY and OFFICER	)	Magistrate Judge Valdez
SMITH, #783,	)	
Defendants.	)	

**ANSWER AND AFFIRMATIVE DEFENSES  
TO PLAINTIFF'S COMPLAINT AT LAW**

Defendants, City of Harvey and Officer Lionel Smith (hereinafter referred to as "Harvey" and "Smith", respectively, by and through their attorneys, Elisha S. Rosenblum and Joshua S. Abern, and in answer to Plaintiffs, William Bradshaw and Dormaree Watson's Complaint, state as follows:

1. This is a civil action arising under 42 U.S.C. §1983. The jurisdiction of this Court is conferred by 28 U.S.C. §1343 and 28 U.S.C. §1367.

**ANSWER:** Defendants admit that Plaintiffs purport to state a cause arising under 42 U.S.C. §1983 but deny that they violated any of Plaintiffs' rights as alleged. Defendants admit that jurisdiction is proper in this Court.

2. Plaintiffs William Bradshaw and Dormaree Watson are residents of the Northern District of Illinois.

**ANSWER:** Defendants state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2, and therefore deny the same.

3. Defendant City of Harvey is an Illinois municipal corporation.

**ANSWER:** Defendants admit the allegations of Paragraph 3.

4. Defendant Smith is a police officer of defendant Harvey and is sued in his individual capacity.

**ANSWER:** Defendants admit the allegations of Paragraph 4.

5. On December 10, 2006, defendant Smith misused his office as a Harvey police officer to arrest each plaintiff and, in the course of making the arrests, to kick, beat, and strike each plaintiff, thereby causing each plaintiff to sustain serious personal injuries.

**ANSWER:** Defendants deny the allegations of Paragraph 5.

6. Thereafter, acting without lawful justification and seeking to cover-up his wrongdoing, defendant Smith caused each plaintiff to be formally charged with criminal offenses.

**ANSWER:** Defendants deny the allegations of Paragraph 6.

7. The criminal charges were dismissed by "SOL" because of the innocence of each plaintiff on January 10, 2007.

**ANSWER:** Defendants deny the allegations of Paragraph 7.

8. As a result of the foregoing, defendant Smith caused plaintiffs to be deprived of the rights secured by the Fourth Amendment to the Constitution of the United State and to be subjected to the Illinois tort of malicious prosecution.

**ANSWER:** Defendants deny the allegations of Paragraph 8.

9. Plaintiffs hereby demand trial by jury.

**ANSWER:** Defendants admit that plaintiffs demand a trial by jury.

#### **AFFIRMATIVE DEFENSES**

Defendants, in addition to the denials and defenses set forth hereinabove this pleading, assert the additional affirmative defenses to plaintiff's claims as follows:

**First Affirmative Defense**

The individual defendant is entitled to qualified immunity for the allegations set forth against him in plaintiffs' complaint because the alleged acts occurred within the course and scope of his official duties and defendant had no knowledge that said acts were unconstitutional nor were said acts clearly violative of plaintiffs' rights at the time said acts were committed. In the event that any action of the individual defendant deprived plaintiffs of their constitutionally protected rights, which defendant denies, then the individual defendant maintains that his actions were done in good faith and with the reasonable belief that such actions were lawful and constitutional.

**Second Affirmative Defense**

The alleged conduct of the defendants does not rise to the level of a constitutional violation.

**Third Affirmative Defense**

Plaintiffs' state law claims are barred by 745 ILCS 10/2-201.

**Fourth Affirmative Defense**

Plaintiffs' state law claims are barred by 745 ILCS 10/2-202.

**Fifth Affirmative Defense**

The individual defendant has legal justification for any and all of their alleged actions.

**Sixth Affirmative Defense**

That any conduct alleged to have been committed by the individual defendant was in response to plaintiffs' conduct in that plaintiffs failed to comply with the lawful commands of the officer.

**Seventh Affirmative Defense**

That the alleged conduct of defendant was legally justified given the conduct of the plaintiffs and the circumstances surrounding the incident.

**Eighth Affirmative Defense**

Plaintiffs' state law claims are barred by 745 ILCS 10/2-109 of the Illinois Tort Immunity Act in that the City of Harvey is immune from suit as local public entities cannot be held liable for an injury resulting from an act or omission of its employees where the employee himself is not liable.

**Ninth Affirmative Defense**

Any conduct alleged to have been committed by the officer was a result of the provocation on the part of plaintiffs.

**Tenth Affirmative Defense**

The officers' actions were in self-defense in response to plaintiffs' conduct.

**Eleventh Affirmative Defense**

The amount of force used by the individual officer was reasonable.

**Twelfth Affirmative Defense**

The officer had probable cause to arrest plaintiffs.

WHEREFORE, Defendants, City of Harvey and Officer Lionel Smith, respectfully request that this Honorable Court enter an Order in their favor and against Plaintiffs, William Bradshaw and Dormaree Watson, dismissing Plaintiffs' Complaint at Law, with prejudice, and for such other and further relief as this Court deems just and equitable.

Respectfully submitted,

CITY OF HARVEY and OFFICER LIONEL  
SMITH

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**IN UNITED STATES DISTRICT COURT  
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WILLIAM BRADSHAW and	)	
DORMAREE WATSON,	)	Case No.: 07-cv-03667
	)	
Plaintiff,	)	
v.	)	The Honorable Joan H. Lefkow
	)	
CITY OF HARVEY and OFFICER SMITH,	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2007, I electronically filed Defendants' Answer and Affirmative Defenses to Plaintiff's Complaint at Law with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Kenneth N. Flaxman  
[knf@kenlaw.com](mailto:knf@kenlaw.com)

CITY OF HARVEY and OFFICER LIONEL  
SMITH

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